


Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 06551-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1000/0252PUS1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 09/929,703	Filed 13 Aug 2001
		First Named Inventor Ulrich, Friedrich	
		Art Unit 2611	Examiner AGHDAM, FRESHTEH N
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reasons stated on the attached sheets. Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number 51011 <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____		 Signature Martin R. Geissler Typed or printed name 1.703.621.7140 Telephone number November 21, 2008 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED
CENTRAL FAX CENTER
NOV 21 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ulrich FRIEDRICH	Confirmation No. 8886
Application No.: 09/929,703	Art Unit: 2611
Filed: 13 Aug 2001	Examiner: Aghdam, F. N.
Title: METHOD FOR TRANSMITTING A PLURALITY OF INFORMATION SYMBOLS	
Attorney Docket No.: 1000/0252PUS1	

MS-AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF REQUEST FOR PRE-APPEAL-BRIEF REVIEW

Dear Sir:

Although there are 4 independent claims 1, 13, 16 and 33 among the claims 1-3, 5, 7, 10, 13-14 and 16-33 and although these claims are variously rejected under 35 USC 103 over the combination of a base reference to Schafer (US Patent No. 6,404,755) and the secondary references to Mousley (US Application No. 2002/0172160), Fujiwara (US Patent No. 4,794,649), Ricci (US Patent No. 6,463,039), and Landoisi (US Patent No. 6,57,842), the primary point of contention resides in the interpretation of the disclosure of Schafer '755 and how it is applied to claim language in each of independent claims 1, 13, 16 and 33.

The language in question in claim 1 is "a different modulation index is assigned to each one of the different information symbols, each of the information symbols conveying different type data, and the modulation indices identifying a type of the conveyed data based on an amplitude of the amplitude modulation index". As can be

Application No. 09/929,703

appreciated from applicant's previous responses and the treatment of these claims in the Final Rejection, independent claims 13, 16 and 33 recite similar language.

It is the position of the Final rejection and the Advisory Action of November 13, 2008 that Schafer '755 "teaches that a known/fixed modulation index(such as 4-QAM) is assigned to the control information and a variable modulation index (such as 16-QAM, 64-QAM, and so forth that is usually higher than the known modulation index assigned to the control information) to the payload information that enables and the second transceiver obtains/extracts (or demodulate) the conveyed information (whether it is control information or payload information)".

The present invention provides improved communication between a first and second transceiver by transmitting various different information symbols on a single wave carrier by using different modulation indices for the various different individual information symbols. Note that different symbols correspond to different types of information.

Prior art arrangements of contactless systems required separate data (overhead) to identify the type of data thus requiring a slowdown in the rate of information. Based on the disclosure of Schafer, it appears that his system also requires such overhead data because the different data rates of Schafer result from a selection of rates from a multi-tiered modulation format exemplified in Schafer as QAM. However, it is important that it be recognized that the different rates are based on the abilities of receivers to recognize different speeds and the measured ability of the system environment to communicate high speeds. In an example the ability to communicate high data rates is seriously affected by heavy rain. In those instances the system of Schafer adjusts the

Application No. 09/929,703

rates of communication. Thus Schafer provides that "control channel information, including information with respect to the level of information density associated with a corresponding payload portion, may be modulated at a lowest common information density, i.e. 4-QAM". Column 12, lines 61-64.

The presently claimed invention differs from Schafer by providing the different modulation index assigned to each one of the different information symbols, each of the information symbols conveying different type data, and the modulation indices identifying a type of the conveyed data based on an amplitude of the amplitude modulation index.

Schafer has the capability to transmit at different order QAM's to increase or decrease rate but these are not symbols as claimed. Additionally, even if purposes of argument, the different QAM rates are interpreted as "symbols", there certainly is no disclosure that the modulation indices identify "a type of the conveyed data based on an amplitude of the amplitude modulation index". As indicated above **QAM has the data itself identified by the amplitude but not the type of data and certainly not based on a plurality of different symbols which convey the information with regard to the different type of data.** Still further, if Schafer is interpreted as having different speeds indicated by symbols, then certainly the different speeds are not identified by amplitude. Based on a reading of Schafer it appears that information concerning the type of information is communicated in the form of data words just as in the prior art which is improved upon by the present invention. Thus claim 1 defines over Schafer and the removal of the rejection is requested.

As indicated above the other independent claims 13, 16 and 33 are similar with respect to the distinguishing feature not shown or disclosed by Schafer. Claim 13 recites

Application No. 09/929,703

different modulation indexes for the different information symbols and further that at least one of the symbols for a control signal is "smaller than the modulation index of a data signal formed by others of said different information symbols." Thus the amplitude factor in claim 13 is not present in Schafer for purposes of determining speed.

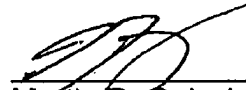
Claims 16 and 33 recite, similar to claim 1, that the information symbols "identify said information items based on an amplitude of each of said modulation indices". Thus these independent claims also are submitted as defining over Schafer.

Application No. 09/929,703

In view of the differences in concept and implementation between the claimed invention and Schafer the present invention is not obvious in view of the cited prior art whether Schafer is considered alone or with any of Fujiwara, Ricci et al, Mousley or Landolsi. This is submitted as true even if, assuming *arguendo*, the statement for the showing of these secondary references is accepted as correct. All dependent claims depend from one of independent claims 1, 13, 16 or 33 and are thus also submitted as defining over the art of record.

Date: 11-20-08

Respectfully Submitted,



Martin R. Geissler
Attorney/Agent for Applicants
Reg. No. 51011

Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road, Suite 310
Fairfax, VA 22033
Tel. 1.703.621.7140